

**OFFICE OF THE COUNTY COUNSEL  
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August 15, 2008

Judge Claudia Wilken  
United States District Court, Northern District  
Oakland Branch  
1301 Clay St., Ste. 400S  
Oakland, CA 94612

Re: *CALIFORNIA RESTAURANT ASSOCIATION v. THE COUNTY OF SANTA CLARA and THE SANTA CLARA COUNTY PUBLIC HEALTH DEPARTMENT*  
Case No. 1-08-CV117885

Dear Judge Wilken:

I am the principle attorney familiar with the legal arguments, authorities and materials in the above-referenced case. I am scheduled to be on vacation for one week as of Monday, August 18, 2008 and have reservations with my family at a high sierra camp in Yosemite. My reservations were obtained by lottery on April 1, 2008 and cannot be changed. I also am scheduled to attend a wedding on Sunday, August 24, 2008 in Los Angeles.

During counsel's efforts to come to agreement on a briefing schedule, our office consistently told counsel for the California Restaurant Association (CRA) that our Board would have to approve any delay in the imposition of fines or penalties under the challenged menu labeling ordinance and that our Board would not meet until August 11, 2008.

I also informed counsel for CRA that our Public Health Director was out of town until August 11, 2008, delaying his ability to begin to review the substantial factual material submitted in support of CRA's motion and to draft his a declaration in support of Santa Clara County's opposition.

On Tuesday, August 12, 2008, after the Santa Clara County Board of Supervisors' first closed session since before the Complaint in this action was filed, I informed Sarah Esmaili that Santa Clara County would agree to delay imposition of fines and penalties until October 14, 2008 and suggested that the parties stipulate to the follow briefing schedule:

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- Defendants' opposition would be filed by August 29, 2008
- Plaintiff's reply would be filed by September 11 or 12, 2008
- The hearing would be set for September 25, 2008 or as soon as the Court would allow.

I obtained agreement from San Francisco to move the hearing date in their case from September 4 to conform with this schedule. However, CRA's counsel was unwilling to agree unless both sets of defendants would agree to a six-week delay in fines and penalties after the hearing date.

After reviewing the Court's scheduling order today, I again informed CRA's counsel that Santa Clara County would delay imposition of fees and penalties until October 14, 2008 if we could agree to the following schedule:

- Defendants' opposition would be filed by August 26, 2008
- Plaintiff's reply would be filed by August 29, 2008
- The hearing would be set for September 4, 2008.

CRA's attorney, Sarah Esmaili, informed me at 4 p.m. today that CRA cannot agree to this schedule unless San Francisco agrees to move the deadline for the filing of CRA's reply in their case from August 21, 2008 to August 29, 2008. San Francisco Deputy City Attorney Francesca Gessner has informed me that San Francisco cannot agree to further extend CRA's time to reply.

Defendants respectfully request that the Court amend the briefing schedule issued today in light of this information and adopt the following schedule in the above referenced case:

- Defendants' opposition would be filed by August 26, 2008
- Plaintiff's reply would be filed by August 29, 2008
- The hearing would be set for September 4, 2008.

Very truly yours,

ANN MILLER RAVEL  
County Counsel



TAMARA LANGE  
Lead Deputy County Counsel